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Migration Issues: Analysis of International Law Normas and the Legislation of Uzbekistan

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Annotation: the article deals with the legal bases of migration relations. The distinctive features of the norms of the migration legislation of the Republic of Uzbekistan and international law are analyzed and highlighted.

Keywords: migration, international labour migration, national and international legislation.

Today, migration is an important component of global development, as well as a serious problem from the point of view of international and national security. According to the UN, the number of people living outside their country has tripled over the past 50 years, and migrants are concentrated in a relatively small number of countries.[1]

According to the International Organization of Migration, migration has emerged as an important political issue in recent years in terms of integration, mass migration, migration security, border security. If 155 million people registered as a migrant in 2000 (2.8% of the world's population), in 2015 approximately 244 mln. person registered (equal to 3.3% of the world's population)[2].

However, from economic point of view, migration is another way of attracting foreign currency, only international aid and foreign investment. According to the International Bank for Reconstruction and Development, in 2006, migrants officially transferred 232 billion dollars to their countries.

According to experts, 167 billion dollars of this will be accounted for by developing countries. In 2017, officially registered remittances to low-income countries reached 466 billion dollars. These remittances have lifted millions of people out of poverty and helped families improve their housing, get quality food, education, and health care. For example, income from labor migrants is 20% of GDP in countries such as Bosnia and Herzegovina, Moldova, and 10% of GDP in Albania, Armenia and Tajikistan.[3].

Despite the mass increase of labor migrants, legal protection of migrants and their legal status are still lacking in many countries. Many scholars define the concept of migration in different ways. In particular, according to I.S.Maslova, "Labor migration is an objective process of moving employees who occupy a special place in the socio-ecoomic life of society and are inextricably linked with the development of production forces and production relations"[4].

V.I.Perevedenttsev said, "Labor migration of the population is one of the conditions for the normal functioning of society, which ensures the optimal distribution of labor resources in the country, and increases the level of regional economic and cultural development. It serves to eliminate social, economic, cultural differences between cities and villages. Because immigrants who seek knowledge come closer to cultural centers, and those who want material well-being go to places that value work and have the faith to earn extra money.

As can be seen from the above, one of the main characteristics of migration is the crossing of state borders. Accordingly, internal and external migration (emigration and immigration) types of

migration are distinguished. External labor migration is always related to the foreign element, it is also called "International labor migration" and is regulated by international national legal norms.

The need for international legal regulation of labor migration appeared 80 years ago. Since then, 59 series and several documents aimed at protecting the rights, legal interests and dignity of persons, who are outside their countries in connection with their professional activities, have been adopted by the United Nations (UN).

In particular, on December 18, 1990, as a result of the ten-year work of the UN special working group, the General Assembly adopted the "International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families" (1951). International legal conventions and agreements regulating labor migration include the Geneva Conventions on the Rights of Refugees (1951), the Amsterdam Convention (1999), the Dublin Convention (1990), and the Schengen Agreement (1990).

As the directly competent body, the International Labor Organization (ILO) has a set of rules on the status and rights of migrant workers in international law, including Convention No. 97 of July 1, 1949 "On Migration" Convention "On Migration in Adverse Conditions" and No. 143 of June 24, 1975 "Promotion of Equal Opportunities and Privileges for Migrant Workers"[5], No. 86 " Recommendation on Labor Migration" [6], No. 151 "Migrant Workers" [7], No. 29 "Forced Labour" Convention, No. 105 "Convention on the Acceptance of Forced Labour"[8] and others.

In addition to these documents, which stipulate specific rights of migrants, migrant workers and their family members are protected in the main documents of the United Nations, namely the "Universal Declaration of Human Rights", "International Covenant on Economic, Social and Cultural Rights", "International Covenant on Civil and Political Rights", the Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and others[9]. A number of international agreements adopted by the World Health Organization (WHO) have established special provisions regarding the physical health of migrant workers. The UNESCO conventions include provisions aimed at improving the quality of education for migrants and their family members [10].

The fact that the international documents on the regulation of labor migration and the protection of the rights of migrants in some cases do not fully cover the relations of external labor migration and the need to improve national legislation by regional and states, to cooperate with other countries, creates the need to improve the practice of concluding regional and bilateral agreements in this area.

In the first years after the establishment of the Commonwealth of Independent States, that is, on November 13, 1992, an agreement was signed on the establishment of an advisory council on labor, migration and social protection of the population in the member states of the Commonwealth of Independent States [11].

The initial legal basis for cooperation in the field of labor migration is the intergovernmental agreement of the CIS member states on labor migration and social protection of migrant workers of April 15, 1994, which, as stated in its preamble, operates on the basis of the principles developed within the framework of the United Nations human rights and the UN International Labor Organization [12].

As a subject of international law and an equal member of the CIS, the Republic of Uzbekistan signed a number of agreements in the field of labor migration in the Central Asian region. In July

1994, Uzbekistan together with Kazakhstan and Kyrgyzstan signed a memorandum on cooperation in the field of migration, and in March 1997, these countries approved a program of cooperation in the field of migration as part of the implementation of the memorandum.

In addition, in 2007, the government signed three agreements with the Russian Federation on "deportation of irregular migrants", "prevention of illegal migration" and "ensuring the rights of labor migrants". According to the agency on foreign labor migration, cooperation on labor migration is currently ongoing with Japan, Poland, Latvia, the Russian Federation, the United Arab Emirates, Spain, Italy, Portugal, Malaysia, New Zealand and Australia [13].

A number of national legal documents aimed at improving the national legislation have been adopted. As a result of such reforms, the Decree of the President of the Republic of Uzbekistan dated May 24, 2017 "On further improvement of state policy in the field of employment and measures to fundamentally increase the efficiency of labor bodies", the Decree No.1066 of the Cabinet of Ministers of the Republic of Uzbekistan dated December 31, 2018 "On human rights in the Republic of Uzbekistan" and in 2018, the Decree of the President of the Republic of Uzbekistan "On additional measures to further improve the external labor migration system of the Republic of Uzbekistan" was adopted.

It should be noted that despite the ongoing reforms, there are still a number of shortcomings in the sector. There are a number of international and national normative documents in the field of labor migration, but the documents on the protection of the rights of labor migrants are not effective enough. Population migration is almost not controlled. It is necessary to strengthen the control of migration by countries with increasing population.

In the field of ensuring the rights of migrant workers, that is, when they become subjects of bilateral jurisdiction (international law considers them participants of "outward migration"), the jurisdiction of the state they leave and the jurisdiction of the state in which they work collide. The difference between the legal structures of these two countries and the legislation on migrant workers hinders the use of human rights and effective measures to prevent their violation.

In conclusion, there are a number of shortcomings in the national and international legislation in the field of foreign labor migration. There is a need to simplify these procedures due to the complexity of the requirements for opening private employment agencies and the adoption of the Law on "External Labor Migration of the Republic of Uzbekistan". In particular, it is necessary to introduce a system of issuing licenses to legal firms of Uzbekistan in a simplified manner, which will help to solve the problems that have arisen in obtaining work visas of foreign countries. With the participation of the Chamber of Advocates of the Republic of Uzbekistan, it will lead to the fullest possible protection of the rights of migrants by introducing the activity of establishing cooperation between law institutes and legal institutes engaged in this activity abroad.

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